

# HOUSE BILL 98

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: January 15, 2010

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Natural Resources – Tidal Fish Licenses – Transfer and**  
3 **Suspension**

4 FOR the purpose of prohibiting a certain temporary transferee of a tidal fish license  
5 from using the license or receiving a transfer of a certain license during a  
6 certain period of time under certain circumstances; altering the grounds for the  
7 suspension or revocation of a tidal fish license; repealing the grounds for a  
8 certain authorization; altering the requirements for certain regulations adopted  
9 by the Department of Natural Resources relating to the suspension and  
10 revocation of a license or authorization; and generally relating to tidal fish  
11 licenses issued by the Department of Natural Resources.

12 BY repealing and reenacting, with amendments,  
13 Article – Natural Resources  
14 Section 4–701(i) and (l)  
15 Annotated Code of Maryland  
16 (2005 Replacement Volume and 2009 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Natural Resources**

20 4–701.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (i) (1) A license or authorization may be transferred only under the  
2 provisions of this subsection.

3 (2) The Department shall review and may approve the permanent  
4 transfer of a license or an authorization to a person who is the licensee's spouse,  
5 daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother,  
6 grandparent, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
7 sister-in-law, or brother-in-law, and only:

8 (i) If the licensee makes application to the Department  
9 requesting transfer and the transferee has paid the fee for the license or authorization;  
10 or

11 (ii) Upon death of the licensee, if the licensee or an authorized  
12 representative of the licensee indicates or had indicated that person's name to the  
13 Department.

14 (3) (i) The Department may approve a temporary transfer for not  
15 less than 30 days and not more than 90 days.

16 (ii) A person may not transfer a license in exchange for any type  
17 of remuneration.

18 **(III) A TEMPORARY TRANSFEREE WHO IS CONVICTED OR**  
19 **RECEIVES A DISPOSITION OF PROBATION BEFORE JUDGMENT OR AN ACCEPTED**  
20 **PLEA OF NOLO CONTENDERE FOR A VIOLATION OF FEDERAL OR STATE**  
21 **FISHERIES LAW THAT RESULTS IN A LICENSE SUSPENSION MAY NOT USE A**  
22 **TIDAL FISH LICENSE ISSUED TO THE INDIVIDUAL OR RECEIVE A TRANSFER OF A**  
23 **TIDAL FISH LICENSE DURING THE PERIOD OF SUSPENSION.**

24 (4) (i) The Department shall establish by regulation a procedure  
25 for a licensee, except a fishing guide licensee or a master fishing guide licensee, to  
26 voluntarily register the licensee's commercial fishing vessel number on the face of the  
27 license.

28 (ii) If a licensee has voluntarily registered the vessel number on  
29 the license under subparagraph (i) of this paragraph, the licensee may allow another  
30 person to use the vessel for the commercial activities authorized on the license.

31 (iii) If a licensee allows another person to utilize a vessel under  
32 subparagraph (ii) of this paragraph, for purposes of the license suspension criteria in  
33 subsection (k) of this section, the licensee shall be held responsible for any violations  
34 committed by the person using the vessel.

35 (5) (i) This paragraph applies only to:

1                   1.     A licensee who has held a valid tidal fish license in  
2 each of the three immediately preceding seasons; or

3                   2.     An authorized representative of a deceased licensee  
4 regardless of the number of seasons the deceased licensee held a valid tidal fish  
5 license.

6                   (ii)    The Department shall review and may approve a permanent  
7 transfer of a license or authorization under this paragraph to a person who has:

8                   1.     A.     Purchased a vessel used for commercial fishing  
9 from the license holder; or

10                   B.     Purchased equipment and assets with a minimum  
11 value of \$2,000 and the commercial fishing business from the license holder;

12                   2.     Been a crew member for at least 2 years in any  
13 commercial fishery as certified by three tidal fish licensees;

14                   3.     Paid the fee for the license or authorization; and

15                   4.     Provided a notarized bill of sale.

16           (1)    (1)    In addition to any other penalty provided in this title, the  
17 Department may suspend or revoke a person's entitlement to engage in a particular  
18 activity or activities under a tidal fish license.

19           (2)    During a period of suspension or revocation imposed by the  
20 Department, the person penalized is not and shall not be authorized under any  
21 existing, renewed, transferred, or new tidal fish license to engage in the particular  
22 activity or activities for which the suspension is imposed.

23           (3)    The following are grounds for suspension or revocation of a tidal  
24 fish license [or an authorization under this section]:

25                   (i)    Making any false statement in an application for a tidal fish  
26 license;

27                   (ii)   [Conviction of a person for a violation under this title] **A**  
28 **SERIOUS VIOLATION OF ~~ANY~~ A STATE OR FEDERAL COMMERCIAL FISHERIES**  
29 **LAW THAT RESULTS IN A CONVICTION, A DISPOSITION OF PROBATION BEFORE**  
30 **JUDGMENT, OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

31                   (iii)   Failure to submit reports required by the provisions of this  
32 title or by the Department pursuant to provisions of this title; or

1 (iv) Failure for a nonresident of the State to appear in court  
2 pursuant to a citation issued by a Natural Resources police officer, or to any other  
3 process issued by any court of Maryland, for violation of this title.

4 (4) A penalty imposed in accordance with this subtitle shall be in  
5 addition to any other penalty authorized under § 4–1201 of this title regarding striped  
6 bass.

7 (5) The Department, in consultation with the Tidal Fisheries Advisory  
8 Commission and the Sport Fisheries Advisory Commission, shall adopt regulations  
9 relating to the suspension and revocation of licenses and authorizations issued under  
10 this title, including:

11 (i) A schedule of points assigned to various offenses under this  
12 title;

13 (ii) A schedule of the maximum number of days that a license  
14 may be suspended according to the number of points accumulated;

15 (iii) Suspension or revocation of a license or authorization [or  
16 conviction of an offense under this title] **FOR A SERIOUS VIOLATION OF ~~ANY~~ A**  
17 **STATE OR FEDERAL COMMERCIAL FISHERIES LAW THAT RESULTS IN AN**  
18 **INDIVIDUAL RECEIVING A CONVICTION, DISPOSITION OF PROBATION BEFORE**  
19 **JUDGMENT, OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

20 (iv) Enhanced penalties for repeated violations of this title; and

21 (v) Enhanced penalties for violations of provisions of this title  
22 that regulate species deemed by the Department to be in need of special protection,  
23 including striped bass, crabs, oysters, and menhaden.

24 (6) Before the suspension or revocation of a tidal fish license under  
25 this section, the Department shall hold a hearing upon not less than 10 days' notice to  
26 the licensee, except that upon the failure of a nonresident of the State to appear in a  
27 court of this State as required by any charging document accusing the person of  
28 committing any offense under this title, in addition to any other appropriate action  
29 taken by the court or the Department, the Department may suspend immediately and  
30 without hearing any license issued to the person under this title.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 July 1, 2010.